

Appl. No. 10/692,396
Atty. Docket No. AA545C
Amdt. dated January 5, 2006
Reply to Office Action of October 5, 2005
Customer No. 27752

REMARKS

Claim Status

Claims 1 - 11 are pending in the present application. No additional claims fee is believed to be due.

Rejection Under 35 USC §103(a) Over Dragoo et al. in view of Zacharias et al. in further view of Noel et al.

Claims 1-5 have been rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 6,229,061 issued to Dragoo et al., hereafter "Dragoo", in view of WO 99/15123 published in the name of Zacharias et al., hereafter "Zacharias", and further in view of U.S. Patent 5,304,161 issued to Noel et al., hereafter "Noel". Applicant respectfully traverses the rejection by the Office.

It is well settled that a reference may teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant. The degree of teaching away will of course depend on the particular facts; in general, a reference will teach away if it suggests that the line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the applicant. *See United States v. Adams*, 383 U.S. 39, 52, 148 USPQ 479, 484 (1966).

Zacharias teaches that "[w]hen a sanitary napkin is secured to an undergarment, the wearer may experience a number of drawbacks or disadvantages." (page 1, lines 31-32). Zacharias further teaches when the napkin is secured to an undergarment one drawback is that the "napkin will tend to move with the undergarment rather than associating with the bodily movements of the wearer." (page 1, lines 35-37). The Office states that Zacharias "discloses a napkin with an adhesive body-facing surface for the benefit of allowing the napkin to associate with the movement of the wearer." (page 3).

In contrast Dragoo teaches an insert comprising a liquid pervious topsheet 102, a liquid pervious backsheet 104, and an absorbent core 106 positioned between the topsheet 102 and the backsheet 104. (col. 9, lines 27-31). Dragoo teaches that the insert comprises an inner surface 114 and an outer surface 116 opposed to the inner surface 114 (col. 9, lines 32-35). Dragoo further teaches that the insert 100 may be secured to a "disposable absorbent diaper 20 by means well known in the art." (col. 12, lines 10-11).

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Dragoo further teaches exemplary means including "adhesives, buttons, mechanical fasteners, snaps, hook and loop type fasteners, etc." (col. 12, lines 11-13). Effectively, Dragoo teaches securing the insert 100 to an undergarment.

Because Zacharias teaches several disadvantages regarding securing the napkin to an undergarment, one of ordinary skill, upon reading Zacharias, would be discouraged from following the path set out in Zacharias. Specifically, one of ordinary skill in the art would be discouraged from placing the adhesive of Zacharias on the inner surface 114 of the insert of Dragoo since the insert is also secured to a diaper.

Because Zacharias teaches away from a combination with Dragoo, Applicant asserts that a *prima facie* case of obviousness, against claims 1-5, has not been established by the Office. Accordingly, Applicant asserts that claims 1-5 are in condition for allowance.

Allowable Subject Matter


The Office has allowed claims 6-11.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C. § 103(a). Early and favorable action in the case is respectfully requested.

Respectfully submitted,

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